HOUSE No. 4348

The Commonwealth of Massachusetts

By Mr. Murphy of Burlington, for the committee on Ways and Means, on House, No.
4303, implementing fiscal stability measurers (House, No. 4348). November 18, 2009.

An Act IMPLEMENTING FISCAL STABILITY MEASURES FOR FISCAL YEAR 2010.

FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
Charles Murphy	21st Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act IMPLEMENTING FISCAL STABILITY MEASURES FOR FISCAL YEAR 2010.

Whereas, The deferred operation for this act would tend to defeat its purpose, which is forthwith to make to implement fiscal stability measures for fiscal year 2010, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Section 3A of chapter 23A of the General Laws, as appearing in the 2008
- 2 Official Edition, is hereby amended by striking out the definition of "Certified project" and
- 3 inserting in place thereof the following definition: -
- 4 "Certified project", an expansion, enhanced expansion or manufacturing retention project that
- 5 has been approved by the economic assistance coordinating council for participation in the
- 6 economic development incentive program pursuant to the provisions of section 3F.
- 7 SECTION 2. Said section 3A of said chapter 23A, as so appearing, is hereby further amended
- 8 by inserting after the definition of "Economic target area", the following 6 definitions: -
- 9 "Enhanced expansion project", a facility that in its entirety and as of the project proposal date: (i)
- is located or will be located within the commonwealth; (ii) generates substantial sales from
- outside of the commonwealth; and (iii) generates a net increase of at least 100 full-time
- employees within 2 years after project certification, and which shall be maintained for a period

- 13 of not less than 5 years; provided, that in the case of a facility that as of the project proposal date is already located in the commonwealth, the term "enhanced expansion project" shall refer only 14 15 to a facility at which the controlling business has proposed to expand the number of permanent full-time employees at such facility to occur after the project proposal date and the expansion 16 17 shall represent: (i) an increase in the number of permanent full-time employees employed by the controlling business within the commonwealth; and (ii) not a replacement or relocation of 18 19 permanent full-time employees employed by the controlling business at any other facility located 20 within the commonwealth; and provided further, that in the case of a facility to be located within the commonwealth after the project proposal date, the term "enhanced expansion project" shall 21 22 refer only to a facility that is: (i) the first facility of the controlling business to be located within 23 the commonwealth; or (ii) (A) a new facility of such business and not a replacement or relocation 24 of an existing facility of such controlling business located within the commonwealth; or (B) an 25 expansion of an existing facility of the controlling business that results in an increase in permanent full-time employees.
- 27 "Enhanced expansion project proposal", a proposal submitted by a controlling business to the EACC pursuant to section 3F for designation of a project as a enhanced certified project; 28 29 provided that: (i) the proposal is submitted in a timely manner, in such form and with such 30 information as is prescribed by the EACC, supported by independently verifiable information 31 and signed under the penalties of perjury by a person authorized to bind the controlling business; 32 (ii) the proposal includes specific targets by year for the subsequent 5 calendar year period 33 relative to the projected increase in the number of permanent full-time employees of the 34 controlling business to be employed by and at the project from among residents of the 35 commonwealth; provided further, that in the case of a project that is a new facility within the 36 meaning of subclauses (A) and (B) of clause (ii) of the definition of enhanced expansion project, 37 such proposal shall include, in addition, the number of permanent full-time employees employed 38 by the controlling business at other facilities located in the commonwealth.

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39 "Expansion project", a facility that in its entirety and as of the project proposal date: (i) is located 40 or will be located within an EOA; (ii) generates substantial sales from outside of the 41 commonwealth; and (iii) generates a net increase of full-time employees within 2 years after 42 project certification, and which shall be maintained for a period of not less than 5 years;

- provided, that in the case of a facility that as of the project proposal date is already located in an
- EOA, the term "expansion project" shall refer only to a facility at which the controlling business
- has proposed to expand of the number of permanent full-time employees at such facility to occur
- after the project proposal date and the expansion shall represent: (i) an increase in the number of
- 47 permanent full-time employees employed by the controlling business within the commonwealth;
- and (ii) not a replacement or relocation of permanent full-time employees employed by the
- 49 controlling business at any other facility located within the commonwealth; and provided,
- further, that in the case of a facility to be located within an EOA after the project proposal date,
- 51 the term "expansion project" shall refer only to a facility which is: (i) the first facility of the
- 52 controlling business to be located within the commonwealth; or (ii) (A) a new facility of such
- business and not a replacement or relocation of an existing facility of such controlling business
- located within the commonwealth; or (B) expansion of an existing facility of the controlling
- business that results in an increase in permanent full-time employees.
- 56 "Expansion project EOA", the EOA within which an expansion project is located or will be
- 57 located.
- 58 "Expansion project ETA", the ETA within which a expansion project is located or will be
- 59 located, determined with reference to the project EOA.
- 60 "Expansion project proposal", a proposal submitted by a controlling business to the EACC
- pursuant to section 3F for designation of a project as a certified expansion project; provided that:
- 62 (i) the proposal is submitted in a timely manner, in such form and with such information as is
- prescribed by the EACC, supported by independently verifiable information and signed under
- 64 the penalties of perjury by a person authorized to bind the controlling business; (ii) the proposal
- 65 includes specific targets by year for the subsequent 5 calendar year period relative to the
- 66 projected increase in the number of permanent full-time employees of the controlling business to
- be employed by and at the project from among residents of the project ETA; provided further,
- that in the case of a project that as of the project proposal date is already located in the project
- 69 EOA, such projected increase shall not be less than 25 per cent over the subsequent 5 year
- period; and (iii) in the case of a project that is a new facility within the meaning of subclauses
- 71 (A) and (B) of clause (ii) of the definition of expansion project, such proposal shall include the

- number of permanent full-time employees employed by the controlling business at other
- 73 facilities located in the commonwealth.
- SECTION 3. Said section 3A of said chapter 23A, as so appearing, is hereby further amended
- by striking out the definition of "Facility," and inserting in place thereof the following 4
- 76 definitions:-
- 77 "Facility", the physical location, in real property, which may include one or more buildings,
- owned or leased by a business, of a commercial, manufacturing or industrial activity, division or
- component controlled by said business, or any real estate project which involves the construction
- or renovation of real property to serve such purpose, or any combination of the foregoing, at
- which are employed, or are projected to be employed, permanent full-time employees of the
- 82 controlling business.
- "Gateway municipality", a municipality with a population greater than 35,000, a median
- 84 household income below the commonwealth's average and educational attainment rates that are
- below the commonwealth's average.
- 86 "Manufacturing retention project", a manufacturing facility that in its entirety and as of the
- project proposal date: (i) is located or will be located within a gateway municipality; (ii)
- generates a net increase or retention of a minimum of at least 100 permanent full-time positions;
- 89 provided, however, that if the controlling business increases the number of full-time positions at
- 90 the facility, it shall be within 2 years after certification of the project and the controlling business
- shall make a commitment that the positions created or retained are to be maintained for at least a
- 92 5-year period; and (iii) generates substantial sales from outside of the commonwealth; provided,
- 93 that in the case of a facility that as of the project proposal date is already located in the gateway
- municipality, the term "manufacturing retention project" shall refer only to a facility for which
- 95 there is a proposed expansion or retention of the number of permanent full-time employees at
- such facility by the controlling business, to occur after the project proposal date and the
- 97 expansion shall represent a retention or increase of at least 100 permanent full-time employees
- employed by the controlling business within the project and shall not represent a replacement or
- 99 relocation of permanent full-time employees employed by the controlling business at any other

facility located within the commonwealth; and provided further, that in the case of a facility to be located after the project proposal date, the term "manufacturing retention project" shall refer only to a facility that is: (1) the first facility of the controlling business to be located within the commonwealth; or (2) a new facility of such business and not a replacement or relocation of an existing facility of such controlling business located within the commonwealth.

"Manufacturing retention project proposal", a proposal submitted by a controlling business to the EACC pursuant to section 3F for designation of a project as a certified manufacturing retention project; provided, however, that: (i) the proposal is submitted in a timely manner, in such form and with such information as is prescribed by the EACC, supported by independently verifiable information and signed under the penalties of perjury by a person authorized to bind the controlling business; (ii) includes specific targets by year for the subsequent 5 calendar year period relative to any projected increase in the number of permanent full-time employees of the controlling business to be employed by and at the project from among residents of the gateway municipality and the commonwealth; provided, further that in the case of a project which is a new facility within the meaning of clause (2) of the definition of manufacturing retention project, such proposal shall include the number of permanent full-time employees employed by the controlling business at other facilities located in the commonwealth.

- SECTION 4. Said section 3A of said chapter 23A, as so appearing, is hereby further amended by striking out the definition of "Project" and inserting in place thereof the following definition:-
- "Project", an expansion project, enhanced expansion project or a manufacturing retention project.
- SECTION 5. Said section 3A of said chapter 23A, as so appearing, is hereby further amended
- by striking out the definitions of "Project EOA" and "Project ETA".
- SECTION 6. Said section 3A of said chapter 23A, as so appearing, is hereby further amended
- by striking out the definition of "project proposal" and inserting in place thereof the following
- 125 definition: -

- "Project proposal", a proposal submitted by a controlling business to the EACC pursuant to
- section 3F for designation as a certified expansion project, enhanced expansion project, or
- manufacturing retention project.
- SECTION 7. Section 3F of said chapter 23A, as so appearing, is hereby amended by inserting
- before the word "projects," the second time it appears in line 2, the following words: -
- expansion, enhanced expansion, or manufacturing retention.
- SECTION 8. Said section 3F of said chapter 23A, as so appearing, is hereby further amended by
- inserting before the word "receipt," in line 6, the following words: in the case of expansion
- project proposals and manufacturing retention project proposals,.
- SECTION 9. Said section 3F of said chapter 23A, as so appearing, is hereby further amended by
- striking out, in line 7, the word "EOA".
- SECTION 10. Said section 3F of said chapter 23A, as so appearing, is hereby further amended
- by inserting before the words "is consistent", in line 15, the following words: if the proposal is
- for an expansion project, that it.
- SECTION 11. Said section 3F of said chapter 23A, as so appearing, is hereby further amended
- by inserting, in line 19, after the word "EOA" the following words:- or municipality.
- SECTION 12. Subsection 1 of said section 3F of said chapter 23A, as so appearing, is hereby
- further amended by striking out subparagraph (iii) of paragraph (b) and inserting in place thereof
- the following subparagraph: -
- (iii) the project proposal includes a workable plan, with precise goals and objectives, by which
- the controlling business proposes to realize the increased employment objectives for the project
- and the business' plan to employ aggressive affirmative action goals, objectives and
- identification and recruitment techniques and, in the case of an expansion project, the plan for
- increased employment from among residents of the project ETA; and

- SECTION 13. Said section 3F of said chapter 23A, as so appearing, is hereby further amended
- by striking out, in line 33, the word "EOA" and inserting in place thereof the following word:-
- 152 area.
- SECTION 14. Subsection 1 of said section 3F of said chapter 23A, as so appearing, is hereby
- further amended by striking out subparagraph (v) of paragraph (b) and inserting in place thereof
- the following new subparagraph:-
- (v) the expansion, enhanced expansion or manufacturing retention project as described in the
- proposal, together with the municipal resources committed thereto, will, if certified, have a
- reasonable chance of increasing or retaining employment opportunities for residents of the
- project area, ETA or municipality as applicable, as advanced in said proposal; and
- SECTION 15. Said section 3F of said chapter 23A, as so appearing, is hereby further amended
- by inserting before the words "the number of years", in line 45, the following words: if the
- designation is for an expansion project,.
- SECTION 16. Subsection 1 of said section 3F of said chapter 23A, as so appearing, is hereby
- further amended by striking out subparagraph (ii) of paragraph (d) and inserting in place thereof
- the following new subparagraph:-
- (ii) the project as described in the proposal, and as further described in the written determination
- of the municipality made pursuant to clause (b) will, if certified, have a reasonable chance of
- increasing or retaining employment opportunities for residents of the project area, ETA or
- municipality as applicable; and
- 170 SECTION 17. Said section 3F of said chapter 23A, as so appearing, is hereby further amended
- by striking out subsections (2) and (3) and inserting in place thereof the following 2 subsections:-
- 172 (2) A certified project shall retain its certification for the period specified by the EACC in its
- certification decision; provided, however, that such specified period shall be not less than 5 years
- 174 from the date of certification nor more than: (i) 20 years from such date; or (ii) for an expansion
- project, the number of years remaining on the duration of designation of the project EOA,

including any renewals thereof; or (iii) the number of years requested by the municipality approving the project proposal, whichever is less, unless such certification is revoked prior to the expiration of said specified period. The certification of a project may be revoked only by the EACC, and only upon: (a) the petition of the municipality that approved the project proposal, if applicable, if the petition satisfies the authorization requirements for a municipal application, or the petition of the director of economic development; and (b) the independent investigation and determination of the EACC that representations made by the controlling business in its project proposal are materially at variance with the conduct of the controlling business subsequent to the certification and such variance is found to frustrate the public purposes that such certification was intended to advance; provided, that the EACC shall review such certified project at least once every 2 years; provided further, that for an expansion project where the actual number of permanent full-time employees employed by the controlling business at the project is less than 50 per cent of the number of such permanent full-time employees projected in the project proposal, then this shall be deemed a material variance for the purposes of a revocation determination. Any such revocation shall only be applied prospectively and shall not apply to, nor revoke any benefits due to the project that relate to years prior to the year in which the revocation determination is made, unless the EACC determines that the controlling business of said project made a material misrepresentation in its project proposal, in which case both the commonwealth and the municipality shall have causes of action against the controlling business for the value of any economic benefits received subsequent to the date on which such material misrepresentation was made. Annually, on or before the first Wednesday in December, the EACC shall file a report detailing its findings of the review of all certified projects that it evaluated in the prior fiscal year to the commissioner of revenue, to the chairs of the joint committee on revenue and the chairs of the joint committee on economic development and emerging technologies.

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(3) The EACC shall evaluate and either grant or deny any project proposal within 90 days of its project proposal date and failure to do so by the EACC will result in approval of such project for a term of 5 years. Approval of a project under this section shall not constitute an approval by the EACC of any tax incentives provided for under chapters 62 and 63.

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207208209	(5) The EACC may award to a certified project tax credits available under subsection (g) of section 6 of chapter 62 and section 38N of chapter 63. The amount and duration of the credit awarded shall be based on the following factors:			
210	(a) for expansion projects:			
211212213	(i) the degree to which the project is expected to generate net new economic activity within the commonwealth by generating substantial sales from outside of the commonwealth, or otherwise;			
214215	(ii) the degree to which the project is expected to increase employment opportunities for residents of the project ETA and of the commonwealth; and			
216 217	(iii) the economic need of the project ETA as measured by the income and employment levels of the ETA;			
218	(b) for enhanced expansion projects:			
219220221	(i) the degree to which the project is expected to generate net economic activity within the commonwealth by generating substantial sales from outside of the commonwealth, or otherwise; and			
222223	(ii) the degree to which the project is expected to increase employment opportunities for residents of the commonwealth;			
224	(c) for manufacturing retention projects:			
225226227	(i) the degree to which the project is expected to generate economic activity within the commonwealth by generating substantial sales from outside of the commonwealth, or otherwise; and			

228 (ii) the degree to which the project is expected to retain or increase manufacturing 229 employment opportunities for residents in the project gateway municipality and the 230 commonwealth. 231 (6) The EACC may, in consultation with the department of revenue, limit any incentive or credit 232 available to a project pursuant to subsection (g) of section 6 of chapter 62 and section 38N of chapter 63 to a specific dollar amount or time duration or in any other manner deemed 233 234 appropriate by EACC. 235 SECTION 19. Paragraph (a) of subsection (2) of section 7 of chapter 32 of the General Laws, as 236 amended by section 8 of chapter 21 of the acts of 2009, is hereby amended by striking out clause (ii) and inserting in place thereof the following clause:-237 238 (ii) A yearly amount of pension equal to 72 per cent of the annual rate of his regular 239 compensation on the date such injury was sustained or such hazard was undergone, or equal to 240 72 per cent of the average annual rate of his regular compensation for the 12 month period for 241 which he last received regular compensation immediately preceding the date his retirement allowance becomes effective, whichever is greater; provided, however, that if an individual was 242 243 in a temporary or acting position on the date such injury was sustained or hazard undergone, the 244 amount to be provided under this subdivision shall be based on the annual rate of regular 245 compensation in his permanent position on the date such injury was sustained or such hazard was 246 undergone, or the average annual rate of his regular compensation in his permanent position for the 12 month period for which he last received regular compensation immediately preceding the 247 date his retirement allowance becomes effective, whichever is greater; provided, however, that 248 249 for any employee who was not a member in service on or before January 1, 1988 or who has not 250 been continuously a member in service since that date, the total yearly amount of the sum of such 251 pension and the annuity as determined in accordance with the provisions of clause (i) shall not 252 exceed 75 per cent of the annual rate of regular compensation as determined in this paragraph 253 and provided further, that no individual who is a member in service on January 1, 1988, whose 254 allowance is limited by the 75 per cent limitation as established in this paragraph shall receive an 255 amount of pension that is less than 72 per cent of such individual's regular compensation on said 256 January 1, 1988; and

SECTION 20. Chapter 62 of the General Laws, as so appearing, is amended by inserting after section 5A the following section:-

Section 5C. An unincorporated association within the definition of, and electing to be treated as, a homeowners association under section 528(c) of the Code for a taxable year shall be subject to tax under this chapter on its income as a resident individual for the taxable year. Its gross income shall be calculated under subsection (a) of section 2, and its taxable income shall be defined as in section 528(d)(1), (3) of the Code, to the extent consistent with the laws of the commonwealth. Such associations shall not be allowed the deductions or exemptions under section 3. The modifications under section 528(d)(2) of the Code shall not apply in determining taxable income for purposes of this chapter.

SECTION 21. Subsection (g) of section 6 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out paragraph (1) and inserting in place thereof the following paragraph: -

(1) A credit shall be allowed against the tax liability imposed by this chapter, to the extent authorized by the economic assistance coordinating council established by section 3B of chapter 23A, up to an amount equal to 50 per cent of such liability in any taxable year; provided, that the 50 per cent limitation shall not apply where the credit is refundable under paragraph (5) of this subsection; (i) for certified expansion projects and certified enhanced expansion projects, as defined in sections 3A and 3F of said chapter 23A, an amount up to 10 per cent, and (ii) for certified manufacturing retention projects, as defined by said sections 3A and 3F of said chapter 23A, an amount up to 40 per cent of the cost of property that would qualify for the credit allowed by section 31A of chapter 63 if the property were purchased by a manufacturing corporation or a business corporation engaged primarily in research and development and is used exclusively in a certified project as defined in sections 3A and 3F of chapter 23A. A lessee may be eligible for a credit pursuant to this subsection for real property leased pursuant to an operating lease.

If such property is disposed of or ceases to be in qualified use within the meaning of said section 31A of said chapter 63 or if such property ceases to be used exclusively in such a certified project, as defined in said sections 3A and 3F of said chapter 23A, before the end of its

useful life, the recapture provisions of subsection (e) of said section 31A of said chapter 63 shall apply and an amount determined thereunder shall be added to the tax imposed by this chapter.

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The total amount of credits that may be authorized by the economic assistance coordinating council in any calendar year pursuant to this section and section 38N of chapter 63 shall not exceed \$25,000,000 and shall include: (1) refundable credits granted during the year pursuant to this section or section 38N of chapter 63; (2) non-refundable credits granted during the year pursuant to this section or section 38N of chapter 63, to the extent that such nonrefundable credits are estimated by the commissioner to offset tax liabilities during the year; and (3) carryforwards of credits from prior years pursuant to this section or section 38N of chapter 63, to the extent that such credit carryforwards are estimated by the commissioner to offset tax liabilities during the year. Of the \$25,000,000 in allowable credits, the economic assistance coordinating council may award not more than \$5,000,000 in any calendar year to certified enhanced expansion projects as defined in sections 3A and 3F of chapter 23A, and not more than \$5,000,000 for certified manufacturing retention projects as defined in said sections 3A and 3F of said chapter 23A. Any amount of the \$25,000,000 annual cap not awarded by the economic assistance coordinating council in a calendar year shall not be applied to awards in a subsequent year. The economic assistance coordinating council shall provide the commissioner of revenue with any documentation that the commissioner deems necessary to confirm compliance with the annual cap and the commissioner shall provide a report confirming compliance with the annual cap to the secretary of administration and finance and the secretary of the executive office of housing and economic development.

As used in this paragraph, "EACC" means the economic assistance coordinating council established by section 3B of chapter 23A. A credit allowed under this subsection may be taken only after the taxpayer completes a report signed by an authorized representative of the corporation, and files the report with the EACC within 2 years after the initial project certification by the EACC and annually thereafter. The report shall contain pertinent employment data needed to determine whether the taxpayer has reasonably satisfied the employment projections set forth in its original project proposal granted pursuant to section 3F of said chapter 23A. The provisions of paragraph (3) of section 3F of chapter 23A shall apply to

any tax benefits awarded under this section. Nothing in this subsection shall limit the authority of the commissioner to make adjustments to a corporation's liability upon audit.

SECTION 22. Said subsection (g) of said section 6 of said chapter 62, as so appearing, is hereby amended by inserting after paragraph (4), the following paragraph:-

(5) If a credit allowed under clause (ii) of paragraph (1) for certified manufacturing retention projects exceeds the tax otherwise due under this chapter, 100 per cent of the balance of such credit may, at the option of the taxpayer and to the extent authorized pursuant to the economic assistance coordinating council, be refundable to the taxpayer for the taxable year in which qualified property giving rise to that credit is placed in service. If such credit balance is refunded to the taxpayer, the credit carryover provisions of paragraph (2) shall not apply.

SECTION 23. Section 38N of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following 2 subsections:-

(a) A corporation subject to tax under this chapter that participates in a certified project as defined in sections 3A and 3F of chapter 23A, may take a credit against the excise imposed by this chapter to the extent authorized by the economic assistance coordinating council established by section 3B of said chapter 23A, in an amount not to exceed 50 per cent of such liability in any taxable year; provided that the 50 per cent limitation shall not apply if the credit is refundable under subsection (b); (i) for certified expansion projects and certified enhanced expansion projects, as defined in sections 3A and 3F of said chapter 23A, an amount up to 10 per cent, and (ii) for certified manufacturing retention projects, as defined by said sections 3A and 3F of said chapter 23A, an amount up to 40 per cent of the cost of any property that would qualify for the credit allowed by section 31A if the property were purchased by a manufacturing corporation or a business corporation engaged primarily in research and development and is used exclusively in a certified project as defined in sections 3A and 3F of said chapter 23A. A lessee may be eligible for a credit pursuant to this subsection for real property leased pursuant to an operating lease.

The total amount of credits that may be authorized by the economic assistance coordinating council in any calendar year pursuant to subsection (g) of section 6 of chapter 62

and this section shall not exceed \$25,000,000 and shall include: (1) refundable credits granted during the year pursuant to subsection (g) of section 6 of chapter 62 or this section; (2) nonrefundable credits granted during the year pursuant to said subsection (g) of said section 6 of said chapter 62 or this section, to the extent that such nonrefundable credits are estimated by the commissioner to offset tax liabilities during the year; and (3) carryforwards of credits from prior years pursuant to said subsection (g) of said section 6 of said chapter 62 or this section, to the extent that such credit carryforwards are estimated by the commissioner to offset tax liabilities during the year. Of the \$25,000,000 in allowable credits, the economic assistance coordinating council may award not more than \$5,000,000 in any calendar year to certified enhanced expansion projects as defined in sections 3A and 3F of chapter 23A and not more than \$5,000,000 for certified manufacturing retention projects as defined in said sections 3A and 3F of chapter 23A. Any amount of the \$25,000,000 annual cap not awarded by the economic assistance coordinating council in a calendar year shall not be applied to awards in a subsequent year. The economic assistance coordinating council shall provide the commissioner with any documentation that the commissioner deems necessary to confirm compliance with the annual cap and the commissioner shall provide a report confirming compliance with the annual cap to the secretary of administration and finance and the secretary of the executive office of housing and economic development.

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The credit allowed under this section may be taken by an eligible corporation; provided, however, that neither credit allowed by said section 31A or by section 31H is taken by such corporation. For purposes of this paragraph, the corporation need not be a manufacturing corporation or a business corporation engaged primarily in research and development. If such property is disposed of or ceases to be in qualified use within the meaning of section 31A or if such property ceases to be used exclusively in a certified project before the end of its useful life the recapture provisions of subsection (e) of section 31A shall apply.

As used in this paragraph, "EACC" means the economic assistance coordinating council established by section 3B of chapter 23A. A credit allowed under this section may be taken only after the taxpayer completes a report signed by an authorized representative of the corporation, and files the report with the EACC within 2 years after the initial project certification by the EACC and annually thereafter. The report shall contain pertinent employment data needed to

determine whether the taxpayer has reasonably satisfied the employment projections set forth in its original project proposal granted pursuant to section 3F of said chapter 23A. The provisions of paragraph (3) of section 3F of said chapter 23A shall apply to any tax benefits awarded under this section. Nothing in this section shall limit the authority of the commissioner to make adjustments to a corporation's liability upon audit.

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- (b) If a credit allowed to a taxpayer under clause (ii) of subsection (a) exceeds the excise otherwise due under this chapter, 100 per cent of the balance of such credit may, at the option of the taxpayer and to the extent authorized by the economic assistance coordinating council, be refundable to the taxpayer for the taxable year in which qualified property giving rise to that credit is placed in service. If such credit balance is refunded to the taxpayer, the credit carryover provisions of subsection (d) shall not apply. The amount of credit eligible to be refunded shall be determined without regard to the limitations in subsections (a) and (c).
- SECTION 24. Said section 38N of said chapter 63, as so appearing, is hereby further amended by inserting before the words "paragraph (c)", each time it appears in lines 66 and 69, the following words:- paragraph (a) or.
- SECTION 25. Section 68C of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out clause (9) and inserting in place thereof the following 2 clauses:-
 - (9) an unincorporated entity within the definition of, and electing to be treated as, a homeowners association under section 528(c) of the Code and subject to tax for the taxable year as provided in section 5C of chapter 62; or
- 392 (10) a business corporation otherwise expressly exempted from the excise under this chapter by 393 any other general law.
- SECTION 26. The second paragraph of section 4 of chapter 64I of the General Laws, as so appearing, is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following 2 sentences:-

For purposes of such determination, the sales price of any motor vehicle, except a motor vehicle purchased from a vendor registered under this chapter who is regularly engaged in the business of making sales at retail of such motor vehicles, shall be the actual amount paid by the purchaser to the vendor for said motor vehicle or the clean trade-in value of said motor vehicle, whichever is greater regardless of the actual condition of the vehicle. "Clean trade-in value" for a motor vehicle shall mean the clean trade-in value or equivalent or successor values listed in the National Automobile Dealers Association used car guide or other value guides, whether published in print or electronically, or default values as determined jointly by the commissioner and registrar.

SECTION 27. Section 4A of said chapter 64I, as so appearing, is hereby amended by striking out the table appearing in lines 26 through 32, inclusive, and inserting in place thereof the following table:-

409	MA AGI Per Return	Use Tax Liability
410	\$0 - \$25,000	\$ 0.00
411	\$25,001 - \$40,000	\$20.00
412	\$40,001 - \$60,000	\$31.00
413	\$60,001 - \$80,000	\$44.00
414	\$80,001 - \$100,000	\$56.00
415	Above \$100,000	(Multiply MA AGI by .000625)

SECTION 28. Chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after section 30A the following section:-

Section 30A ½. Notwithstanding section 30A or any other general or special law to the contrary, the registrar may, in the interest of seeking cost efficiencies, avoiding disruptions and continuing to provide registry services for residents of the commonwealth, enter into agreements with third party entities based in the commonwealth to perform functions on behalf of the registry of motor vehicles. The registrar shall enter into agreements only with an existing entity that provides automobile-related services to the general public, including, but not limited to, automobile-related associations, insurance companies and their authorized producers and service carriers, and that maintains business offices that are open to the public during hours and at locations believed to be convenient for registry customers and in areas where a continuing need exists to provide registry services; provided, however, that an entity entering into such an agreement with

the registrar shall only provide registry services to its own members or clients; provided further, that agreements entered into by the registrar and insurance companies or their authorized producers and service carriers may authorize such entities to perform registry services that do not require issuance of a new plate and that are currently originated by those entities; and provided further, that as part of any such agreement described in the preceding clause, the registrar shall provide each entity a secure password with which to transact those services on behalf of members or clients.

The registrar may provide necessary inventories, equipment, electronic connections and training in regard to such agreements to provide for the provision of registry-related services by the third party. The registrar may help to defray the expenses of the third party as part of the agreement if necessary to provide such services, but only if the overall effect of such agreement results in cost efficiencies to the registry. The registrar shall not enter into an agreement that results in the loss of employment with the commonwealth of any person who was performing services related to the agreement as a registry employee within the 30 days before the effective date of the agreement.

The registrar shall on an annual basis, or more frequently if required by the agreement, review the third party's most recent performance under the agreement and if the cost efficiencies and other purposes for which the agreement has been entered into are not being realized, the registrar may terminate the agreement and recover all inventories, equipment, monies due and other items provided to the third party. An agreement may be amended from time to time.

All employees of a third party performing registry-related functions or having access to registry data or equipment shall be subject to all state and federal laws and regulations governing the protection of personal information. Fees collected by the third party on behalf of the registrar shall be deposited in the treasury of the commonwealth pursuant to section 34. An agreement shall ensure that the third party's performance of registry-related functions is subject to periodic audits by registry staff and the state auditor.

SECTION 29. Section 68B of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following

- 456 sentence:- Nothing in this section shall prevent the department from using or providing
- alternative placements and employing alternative measures which in the department's discretion
- will reasonably assure the appearance of the children before the court.
- 459 SECTION 30. Subsection (2) of section 44A of chapter 149 of the General Laws, as so
- appearing, is hereby amended by striking out paragraph (A) and inserting in place thereof the
- 461 following paragraph:-
- (A) Every contract or procurement for the construction, reconstruction, installation, demolition,
- maintenance or repair of any building by a public agency estimated to cost: (i) less than \$5,000
- shall be obtained through the exercise of sound business practices; provided that the public
- agency shall make and keep a record of each such procurement; and provided further that said
- record shall, at a minimum, include the name and address of the person from whom the services
- were procured; or (ii) \$5,000 or greater but less than \$10,000 shall be awarded to the responsible
- person offering to perform the contract at the lowest price quotation; provided, however, that the
- public agency shall seek written price quotations from no fewer than 3 persons customarily
- 470 providing the work for which the contract is being made available. When seeking written
- 471 quotations pursuant to clause (ii), the public agency shall make and keep a record of the names
- and addresses of all persons from whom price quotations were sought, the names of the persons
- submitting price quotations and the date and amount of each price quotation.
- SECTION 31. Chapter 7 of the resolves of 2008 is hereby amended by striking out the number
- 475 "2009" and inserting in place thereof the following number:- 2010.
- SECTION 32. Chapter 498 of the acts of 2008 is hereby amended by striking out the words
- 477 "March 1, 2010" and inserting in place thereof the following words: July 1, 2010.
- SECTION 33. Item 0321-1510 of section 2 of chapter 27 of the acts of 2009 is hereby amended
- by striking out the figure "\$2,000,000" and inserting in place thereof the following figure:-
- 480 \$2,500,000.

- 481 SECTION 34. Item 0411-1000 of said section 2 of chapter said 27, as so appearing, is hereby
- amended by striking out the figure "\$4,952,646" and inserting in place thereof the following
- 483 figure:- \$4,605,961.
- 484 SECTION 35. Item 0699-9100 of said section 2 of said chapter 27, as so appearing, is hereby
- amended by striking out the figure "\$52,104,529" and inserting in place thereof the following
- 486 figure: \$27,931,384.
- SECTION 36. Item 7004-9024 of said section 2 of said chapter 27, as so appearing, is hereby
- amended by striking out the figure "\$29,997,061" and inserting in place thereof the following
- 489 figure: \$32,897,061.
- 490 SECTION 37. Item 7004-9316 of said section 2 of said chapter 27, as so appearing, is hereby
- amended by striking out the figure "\$3,060,000" and inserting in place thereof the following
- 492 figure: \$160,000.

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- 493 SECTION 38. Said section 2 of said chapter 27 is hereby further amended by striking out item
- 494 8315-1020 and inserting in place thereof the following item:-
- 495 8315-1020 For the department of public safety, which may expend not more than \$2,478,869 in revenues collected from fees for annual elevator and 496 497 amusement park ride inspections; provided, that funds shall be expended for 498 the operation of the department and to address the existing elevator inspection 499 backlog; provided further, that the department shall make efforts to employ inspectors who will perform overnight and weekend inspections as their 500 501 regular work shift; provided further, that the department may collect and retain reimbursement for overtime costs associated with overnight and 502 503 weekend inspections; provided further, that the department shall provide a full 504 waiver of the inspection fee for an individual who requires a wheelchair lift as a medical necessity and whose annual income does not exceed the maximum 505 allowable federal SSI benefit, or \$7,236 a year, whichever is greater; and 506 507 provided further, that notwithstanding any general or special law to the

contrary, for the purpose of accommodating timing discrepancies between the

509 receipt of retained revenues and related expenditures, the department may 510 incur expenses and the comptroller may certify for payment amounts not more 511 than the lesser of this authorization or the most-recent revenue estimate as 512 reported in the state accounting system\$2,478,869 513 SECTION 39. Section 10 of chapter 61 of the acts of 2009, as amended by section 6 of chapter 514 102 of the acts of 2009, is hereby further amended by striking out the last sentence and inserting 515 in place thereof the following sentence:- Each county, and in the case of Suffolk county the city of Boston, shall, not later than June 30, 2010, appropriate and pay to the commonwealth an 516 517 amount equal to 51.25 per cent of the minimum obligations to fund from its own revenues in 518 fiscal year 2009 the operations of the office of the sheriff; provided, however, that said payment 519 shall not exceed one-half of the corrections share of the county's fiscal year 2010 retirement 520 assessment. 521 SECTION 40. Clause (b) of chapter 64 of the acts of 2009 is hereby amended by striking out the figure "\$7,000,000" and inserting in place thereof the following figure: \$18,004,810. 522 SECTION 41. Notwithstanding any general or special law to the contrary, the secretary of 523 524 administration and finance may direct the comptroller to transfer not more than \$30,000,000 from the General Fund to the Medical Security Trust Fund, established under subsection (k) of 525 526 section 14G of chapter 151A of the General Laws, in fiscal year 2010, to be available to pay for 527 health insurance coverage provided under that section if the unemployment health insurance 528 contributions required under that section will be inadequate to fund the health insurance 529 coverage. The secretary of administration and finance may later direct the comptroller to 530 transfer not more than \$30,000,000 from the Medical Security Trust Fund to the General Fund to 531 repay the General Fund for the transfer authorized by the preceding sentence. 532 SECTION 42. Notwithstanding any general or special law to the contrary, the comptroller shall, 533 on or before June 30, 2010, transfer \$35,791,289 to the General Fund from the Commonwealth 534 Stabilization Fund, including portions of the amounts transferred to the Commonwealth 535 Stabilization Fund by clause (ii) of section 1 of chapter 56 of the acts of 2009, but the 536 comptroller shall instead transfer a lesser amount if the secretary of administration and finance so

requests in writing. The comptroller, in consultation with the secretary, may take the overall cash flow needs of the commonwealth into consideration in determining the timing of this transfer of funds. The comptroller shall provide a schedule of transfers to the secretary and to the house and senate committees on ways and means.

SECTION 43. (a) Notwithstanding any general or special law to the contrary, the commissioner of revenue shall establish a tax amnesty program during which all penalties that could be assessed by the commissioner for the failure of the taxpayer to: (i) timely file any proper return for any tax type and for any tax period; (ii) file proper returns which report the full amount of the taxpayer's liability for any tax type and for any tax period; (iii) timely pay any tax liability; or (iv) pay the proper amount of any required estimated payment toward a tax liability shall be waived without the need for any showing by the taxpayer of reasonable cause or the absence of willful neglect. The waiver of a taxpayer's liability under this section shall apply if the taxpayer files returns, makes payments as required by the commissioner or otherwise comes into compliance with the tax laws of the commonwealth as required by the commissioner pursuant to the tax amnesty. The scope of the amnesty program in terms of the particular tax types and periods covered, including any limited look-back period for unfiled returns, shall be determined by the commissioner.

- (b) The amnesty program shall be established for a period of 2 consecutive months within fiscal year 2010 to be determined by the commissioner, such period to expire not later than June 30, 2010, and all required payments shall be made on or before June 30, 2010, in order for the amnesty to apply. If a taxpayer fails to pay the full liability before June 30, 2010, the commissioner shall retain any payments made and shall apply said payments against the outstanding liability, and the provisions of the tax amnesty program, other than the additional penalty authorized by section 2, shall not apply.
- (c) The commissioner's authority to waive penalties during the amnesty period shall not apply to any taxpayer who, before the start date of the amnesty program selected by the commissioner, was the subject of a tax-related criminal investigation or prosecution. The amnesty program shall not authorize the waiver of interest or any amount treated as interest. The commissioner may offer tax amnesty to those taxpayers who have either any unpaid self-

assessed liability or who have been assessed a tax liability, whether before or after their filing of a return, which assessed liability remains unpaid.

- (d) To the extent that a taxpayer within the scope of the amnesty program as determined by the commissioner and wishing to participate in the amnesty program has postponed the payment of an assessment of tax, interest and penalty under the authority of subsection (e) of section 32 of chapter 62C of the General Laws, the taxpayer shall waive in writing all rights under said subsection (e) to further delay the payment of the tax and interest portions of the assessment. The tax and interest portions of the assessment shall be payable in full from the date of the commissioner's notice of assessment. Upon payment by the taxpayer of the tax and interest of the outstanding assessment, the commissioner shall waive all penalties associated with that assessment. The taxpayer and the commissioner shall then proceed with all administrative appeal rights that the taxpayer wishes to pursue with respect to the assessment.
- (e) Amnesty shall not apply to those penalties which the commissioner would not have the sole authority to waive including, but not limited to, fuel taxes administered under the International Fuel Tax Agreement or under the local option portions of taxes or excises collected for the benefit of cities, towns or state governmental authorities.
- (f) The commissioner shall maintain records of the amnesty provided under this section including, but not limited to: (i) the number of taxpayers provided with amnesty; (ii) the types of tax liability, for which amnesty was provided and, for each type of liability, the amount of tax liability collected and the amount of penalties foregone by virtue of the amnesty program; and (iii) the total outstanding tax liability for amnesty eligible taxpayers at the conclusion of this program, after the collection of all funds under this section. The commissioner shall file a report detailing such information with the clerks of the house of representatives and the senate, the joint committee on revenue, the house and senate committees on ways and means, the minority leader of the house and the minority leader of the senate, not later than September 1, 2010; provided, however, that such report shall not contain information sufficient to identify an individual taxpayer or the amnesty that an individual taxpayer was provided under this section.

- 593 (g) A taxpayer who is eligible for the amnesty program based upon the criteria established by the commissioner and who fails to come forward under this program and make payments before 594 595 June 30, 2010 shall, in addition to all other penalties provided by chapter 62C, be subject to an additional penalty not to exceed \$500 per taxpayer, which shall be calculated and assessed 596 597 according to rules determined by the commissioner and which may be subject to de minimis or 598 other exceptions that the commissioner may consider appropriate. This penalty shall be subject 599 to chapter 62C and shall be added to and become part of the tax due. The commissioner may 600 waive the penalty provided by this subsection for reasonable cause as provided in subsection (f) of section 33 of chapter 62C.
- 602 SECTION 44. Notwithstanding any general or special law to the contrary, the office of the state 603 comptroller shall continue to process all payroll deductions authorized by employees who are members of the State Police Commissioned Officers Association of Massachusetts, Inc. 604
- 605 SECTION 45. Sections 20 and 25 shall be effective for tax years beginning on January 1, 2009.
- 606 SECTION 46. Section 19 shall take effect on July 1, 2009.

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SECTION 47. Sections 21 through 24, inclusive, and section 27 shall be effective for tax years 607 608 beginning on January 1, 2010.